



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 2714-99

18 February 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed enclosure (1) with this Board requesting that the general discharge be recharacterized to honorable.
2. The Board, consisting of Mr. Dunn, Mr. Pfeiffer and Ms. Gilbert, reviewed Petitioner's allegations of error and injustice on 8 February 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.
 - c. The Board found that Petitioner enlisted in the Navy on 15 November 1954 at age 17. He received nonjudicial punishment on one occasion and was convicted by a summary court-martial and a special court-martial. His offenses were two periods of unauthorized absence totaling about 36 days and consuming alcoholic beverages as a minor. In addition, he was hospitalized following a suicide gesture but was returned to duty after eight days.
 - d. Subsequently, Petitioner was recommended for separation by reason of convenience of the government due to his low average

mark in military behavior during the preceding 12 months. This recommendation was approved and he was released from active duty on 16 December 1958 with his service characterized as being under honorable conditions. On 25 January 1963 he was issued a general discharge at the end of his military obligation.

e. Petitioner's case was considered by the Navy Discharge Review Board (NDRB) on 29 August 1972. The NDRB's recorder noted as follows:

Petitioner received a General Discharge based on a Military Behavior average of 2.72 (an average of 3.0 was require for an honorable characterization of service). It appears an error was made. The average of 2.72 is the average of the second page of two marks pages, and does not take into consideration the marks assigned from Nov 54 to Jun 56. A second marks page was started on 1 Jul 56 when semi-annual marks and a new format replaced the old quarterly marks. The Personnel Officer computing Petitioner's final average ignored the earlier portion of the enlistment. The final Military Behavior average calculates to 3.20 with the proper weighing of semi-annual versus quarterly marks.

The NDRB concluded that because of the error Petitioner's discharge should be recharacterized to honorable. His record has been corrected to show that he was issued an honorable discharge on 29 January 1963 at the end of his military obligation.

f. The Board is aware that when an individual is separated by reason of the convenience of the government they must be issued the type of discharge warranted by the service record. However, the Board did not necessarily agree with the conclusion of the NDRB that his military behavior or conduct marks were computed incorrectly since the two different evaluation system really cannot be compared. The evaluation system which ended in June 1956 required an average of 3.25 in conduct for an honorable characterization of service and the succeeding system only required an average of 3.0 and there are other differences which essentially preclude a meaningful average of the two systems. Further, the Board's research has not found any 1956 directive that would require the two periods to be averaged.

g. The Board is also aware that the NDRB decisional document is in error because it did not address the characterization of service on release from active duty on 16 December 1968. Given the NDRB's conclusion that his marks on active duty warranted an honorable characterization of service

then the characterization on release from active duty should also have been honorable. The Navy Personnel Center has declined to make an administrative correction in the characterization of service based on the NDRB decisional document.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Although the Board did not necessarily agree with the decision of the NDRB, the Board believes its decision is binding on the Navy. The Board notes that Petitioner could not have been issued an honorable discharge at the end of his military obligation unless the characterization of service on his release from active duty was also honorable. Therefore, it is clear that the characterization of service on release from active duty must also be honorable and this issue should have been addressed by the NDRB. Given the finding of the NDRB, the Board believes that it must now complete the corrective action. Therefore, the Board concludes that the characterization of service on his release from active duty on 16 December 1958 should be recharacterization to honorable.

RECOMMENDATION:

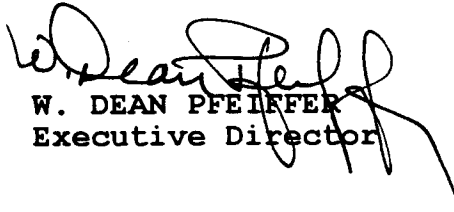
- a. That Petitioner's naval record be corrected to show that on release from active duty on 16 December 1958 his service was characterized as honorable vice the characterization of under honorable conditions now of record.
- b. That this Report of Proceedings be filed in Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the

authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director